IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 6839 of 1995

With

FIRST APPEAL No 1919 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE N.G.NANDI
and
HON'BLE MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MADHUBHAI DHIRABHAI PATEL

Versus

SPECIAL LAND ACQUISITION OFFICER

Appearance:

1. First Appeal No. 6839 of 1995
MR NITIN M AMIN for Petitioner No. 1
MS ARCHANA RAWAL, LD. AGP for Respondent No. 1-3

2. First Appeal No. 1919 of 1993
MS ARCHANA RAWAL, LD. AGP FOR Petitioners
MR NITIN M AMIN for Respondent No.1

CORAM : HON'BLE MR.JUSTICE N.G.NANDI
and
HON'BLE MR.JUSTICE D.P.BUCH

Date of decision: 20/11/2003

COMMON ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE N.G.NANDI)

1. The claimant as well as the State respectively have preferred these appeals under section 54 of the Land Acquisition Act, 1894 (herein after referred to as the 'Act') directed against the common judgment & award dated 29-4-1992 in Land Reference Case No. 1196 of 1988 rendered by Learned Extra Assistant Judge, Sabarkantha at Himatnagar. It may be seen that Notification under Section 4 (1) of the Act came to be published on 20-3-1986 for acquiring the land of the appellant/respondent in these appeals for the purpose of Guhai Water Reservoir Project. Respondent No.1/ appellant completing the formalities required under the Act declared the award under Section 11 of the Act on 30-1-1988 awarding compensation at the rate of Rs.165-00 per Aare (Rs.1.65 per sq.meter) in respect of irrigated land and Rs.110-00 per Aare (Rs.1.10 per sq.meter) in respect of non-irrigated land, and Rs.2.00 per Aare (Rs.0.20 per sq. meter) in respect of kharaba land. The claimants preferred reference under Section 18 of the Act claiming enhancement in the compensation awarded under Section 11 of the Act. The Reference Court enhanced the compensation and awarded additional compensation at the rate of Rs.625-00 per Aare (Rs.6.25 per sq. meter) in respect of irrigated land, Rs.425-00 per Aare (Rs.4.25 per. sq. meter) in respect of non-irrigated land and Rs.6-00 per Aare (Rs.0.60 per sq. meter) in respect of kharaba land.

2. The award under Section 18 of the Act by the Reference Court has been assailed by the present appeals preferred by the claimant as well as the State, as both feel aggrieved by the same.

3. Mr. N.M. Amin, learned advocate for the appellant in First Appeal No. 6839 of 1995 has submitted that by the same notification under Section 4 (1) of the Act, other lands of the same village came to be acquired for the same purpose by the same acquiring body. It is further submitted that this acquisition gave rise to number of reference petitions under Section 18 of the Act and the award by the Reference Court led to the filing of First Appeals being First Appeal No. 5709 to 5729 of

1995 with other appeals by the respective claimants. The State also preferred cross appeals being First Appeal No. 1737 to 1781 of 1993. That, all these appeals came to be decided by a common judgment & award dated 18-3-1999 by Division Bench of this Court, whereby the compensation granted by the Reference Court has been enhanced to Rs.814-00 for all categories of lands. It is submitted by Mr. Amin that the judgment in the group matter would be applicable to the present appeal also, since the lands of the present appellant of the same village has been acquired by the same notification under Section 4(1) of the Act by the same acquiring body and for the same purpose.

4. It is not disputed by Ms. Archana Rawal,learned AGP for the State that the land of the present appellant of the same village has been acquired by the same notification, for the same purpose and same acquiring body. Copy of the judgment rendered in First Appeal No. 1737 of 1993 decided with other cognate maters has been placed for our perusal. It is suggested that the land of the present appellant is of the same village and acquired under the same notification for the same purpose. The land of the present appellant is an irrigated land without any superstructure or well therein. It is suggested that in the common judgment (supra) for the lands of the same village acquired vide same notification and for the same purpose the market value has been determined at Rs.814-00 per Aare. When the lands are of the same village and acquired for the same purpose and under same notification, there is no reason why the market value determined in respect of other lands should not be made applicable to the present case also. In our opinion, following the judgment rendered in First Appeal No. 1737 of 1993 and other cognate matters, we are of the view that the appellant-claimant in the present appeal would be entitled to the compensation at the rate of Rs.814-00 per Aare. That, rest of the directions, including directions given by the Reference Court in the award relating to the payment of additional compensation under Section 23 (1-A), Solatium under Section 23(2) and interest under Section 28 of the Act are not disturbed, and are hereby upheld. The claimant in addition to the Solatium under Section 23(2) of the Act, would also be entitled to the interest on the Solatium.

6. In the result First Appeal No. 6839 of 1995 preferred by the appellant-claimant is partly allowed to the extent pointed out above. Whereas the First Appeal No. 1919 of 1993 preferred by the State stands dismissed. No order as to costs.

Office to keep copy of this judgment in FA No. 1919 of 1993.

DT: 20-11-2003 (N.G. Nandi, J)

(D.P. Buch, J)

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